THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.9060 of 2007

26-04-2007

Between:-

Rebba Subba Rao and four others.

Petitioners

And

State Bank of India, Bhimavaram, West Godavari District, Rep., by the Chief Manager and Authorized Officer and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 9060 of 2007

Oral order:

The writ petition is premature. The notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') dated 21-02-2007 issued by the first respondent informing that the principal borrower, the second respondent, has defaulted in repayment of loan installments; that the loan account has been treated as non-performing asset and that the secured assets including the property mortgaged by the petitioners in favour of the first respondent towards collateral security for the loan obtained by the second respondent will be proceeded against under the provisions of the Act, unless

the petitioners discharge the specified liability of Rs.4,34,71,550-94 paise, is assailed.

In response to this notice, the petitioners on 16-04-2007 *inter alia* stated that the guarantee furnished by them is limited to the liability of Rs.2,00,00,000-00 (Rupees two crores only) and they are not liable beyond that amount. The petitioners also contended that the surety was for a period of twelve months and has not been renewed thereafter and therefore their liability had lapsed. No response has been communicated by the first respondent as required under Section 13 (3) (a) of the Act, nor have any proceedings under Section 13 (4) or 14 of the Act been initiated.

Apprehending that the first respondent would arbitrarily and without due application of mind proceed against the properties of the petitioners mortgaged towards security, without considering the objections, the writ petition is filed.

In the circumstances stated, there is no current grievance which requires adjudication by this Court.

In any event, the petitioners have a plurality of remedies including one under Section 17 of the Act by way of an appeal to the Debt Recovery Tribunal, should any proceedings be initiated under Section 13 (4) of the Act.

In the aforesaid circumstances, the writ petition is dismissed with liberty to the petitioners to pursue

appropriate remedies, if any cause of action accrues. No costs.

GODA RAGHURAM, J

Dated:26-04-2007
Pvks/*

Nb: Furnish c.c. in three days.
B/o pvks/*